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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
) CC Docket No. 97-181
Defining Primary Lines)

To: The Commission

COMMENTS OF COX COMMUNICATIONS, INC.

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To: The Commission

Cox Communications, Inc. (“Cox”), by its attorneys, hereby submits these comments in response to the Commission’s *Notice of Proposed Rulemaking* in the above-referenced proceeding.^{1/} Cox files these comments for the limited purpose of addressing the privacy issues described in the *Notice*.^{2/} As shown below, the Commission should treat primary line information as subscriber list information under Section 222 of the Communications Act, and should not apply customer proprietary network information (“CPNI”) restrictions to primary line identifications.

As Cox has shown in the Commission's pending proceeding on CPNI,^{3/} the Commission should recognize that there are distinct categories of customer information that should be distinguished in the Commission's rules. These categories balance the privacy and competitive issues raised by different types of customer information. The first category consists of information that raises relatively few privacy and competitive concerns.

3/ Telecommunication Carriers' Use of Customer Proprietary Network Information and Other Customer Information, *Notice of Proposed Rulemaking*, Dkt. No. 96-115, FCC 96-221, rel. May 17, 1996.

Subscriber list information falls in this category. The second category consists of information that raises some competitive and privacy concerns, such as services purchased by a customer. The third category, which should be subject to the most safeguards, consists of highly sensitive information, including data regarding specific call made by consumers.

Under the statutory scheme adopted by Congress, affirmative consumer consent is required before any entity (including a carrier's affiliates) can use CPNI that falls in the second and third categories, while subscriber list information is to be made available unless the consumer seeks to have it withheld.^{4/}

Designations of primary lines fall within the category of subscriber list information. Subscriber list information is, in essence, information that a subscriber normally would expect to have revealed. That is the case for primary line designations. Indeed, there plainly should be no expectation of privacy regarding primary line information because every subscriber must have a primary line. Similarly, like other subscriber list information, there is little likelihood of competitive harm to the provider of service if a primary line designation is revealed.

Treating primary line designations as subscriber list information also will further the Commission's universal service goals. If information regarding primary line designations is generally available, carriers will have less incentive to misreport secondary lines as primary lines, reducing the burden on the universal service funding mechanism.

While the *Notice* tentatively concludes that primary line designation information should not be made available for purposes other than determining the appropriate subscriber line charge and presubscribed interexchange carrier charge for each customer, there is no

^{4/} Compare 47 U.S.C. § 222(a) with 47 U.S.C. § 222(e).

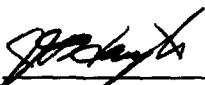
basis for such a determination.^{5/} In effect, the *Notice* proposes to treat primary line designations as even more private than the most sensitive CPNI – which, under Section 222, can be revealed with customer consent. Ironically, the *Notice* proposes to adopt this treatment without any evidence that consumers will consider primary line designations to have any privacy implications. It is far more reasonable for the Commission to conclude that primary line designations are subscriber list information and to permit consumers to opt out of disclosure, the same way they can for subscriber list information. Thus, the Commission should adopt that approach.

II. Conclusion

For all these reasons, Cox Communications, Inc. respectfully requests that the Commission adopt rules in this proceeding in accordance with these comments.

Respectfully submitted,

COX COMMUNICATIONS, INC.

By: 

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^{5/} *Notice* at ¶ 16.

CERTIFICATE OF SERVICE

I, Tammi A. Foxwell, a secretary at the law firm of Dow, Lohnes & Albertson, do hereby certify that on this 25th day of September, 1997, the foregoing "Comments" were sent via hand delivery to the following:

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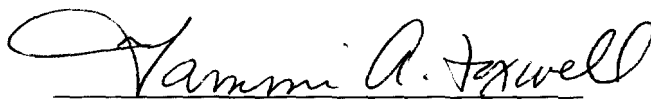
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